IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO. 6440 OF 1998

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge ?

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KALYANSINGH BHOJUSINGH GADHVI - Petitioner(s)

Versus

THE PRINCIPAL, SARVAJANIK KELAVANI MANDAL - Respondent(s)

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Appearance :

Ms. Naynaben K. Gadhvi for Petitioner(s).

Shri R.V. Desai for Respondent(s).

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 10/08/2007

ORAL JUDGMENT

The petitioner, being aggrieved by the award dated 15th January, 1998 passed by the learned Presiding Officer, Labour Court,

Kalol in Reference (LCK) No.24 of 1988, is before this Court under Article 227 of the Constitution of India with a submission that the learned Court below erred in rejecting the reference.

2. The short facts necessary for disposal of the present Writ Application are that the petitioner, who was working as a bus driver with the respondent-institution, came to the learned Labour Court with a submission that he was illegally retrenched and when he went back to the employer for work, he was not allotted any work. The employer came to the Court with a submission that under Exhibits 11/1 and 11/2 (Final Exhibit Nos.18 and 19), the workman had tendered his resignation; it was tendered in April, but, the workman was terminated from the services with effect from 1st June and on that very day, all his dues were cleared off. It was submitted before the Court that present is not a case of retrenchment or illegal removal.

3. During the course of examination, the present petitioner-workman was shown Exhs.11/1 and 11/2 and he admitted that these two documents were containing his initials, namely, “K.B.G.” He also admitted that while receiving the money in lump sum, he had affixed some thumb impression on the payment voucher. On the basis of these documents and the admissions made by the workman, the learned Court below recorded that the workman had voluntarily resigned.

4. Ms. Naynaben Gadhvi, learned Counsel for the petitioner, submitted that the findings are perverse and deserve to be interfered with and quashed.

5. In the opinion of this Court, present is not a case where the learned Court below has observed something in absence of the record or has refused to consider the evidence available on the records. Out of two possible views, if one view is adopted by the Court and the said view appears to be reasonable, then, the High Court under Article 227 of the Constitution of India would not be entitled to set aside the findings and substitute its own findings.

6. The findings recorded by the learned Court below, being pure findings of facts, I refuse to interfere. I find no reason to interfere in the petition. The petition is dismissed. Rule is discharged. Interim relief, if any, is vacated. No costs.

[R.S.Garg, J.]

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